

REMARKS

Reconsideration of the present application is requested. New claim 23 has been added. Claims 1-8 and 10-23 are currently pending. Claims 3, 4 and 10-22 have been withdrawn from consideration. Claims 1, 2 and 5-8 are currently under examination. Support for amendments made to claim 1 and new claim 23 may be found in FIG. 2 and the corresponding discussion in the specification.

AMENDMENT FILED CONCURRENTLY WITH RCE TO FURTHER EXPEDITE

PROSECUTION

Applicants have amended claim 1 to recite, "wherein the capacitor extends at least an entire vertical length of the first sub-layer." Because such a recitation has not been previously considered by the Examiner, and would likely be considered a new issue requiring further consideration and/or search, Applicants have filed this Amendment along with a Request for Continued Examination (RCE) to ensure consideration. Any subsequent Office Action other than a Notice of Allowance or Quayle Action should be **Non-Final**.

PRIOR ART REJECTION

Rejection Under 35 U.S.C. § 102

The Examiner rejects claims 1-2 and 5-8 under 35 U.S.C. § 102(e) as allegedly anticipated by U.S. Patent No. 6,503,794 ("*Watanabe*"). This rejection is respectfully traversed.

The semiconductor device of claim 1 requires, *inter alia*, "a capacitor having a lower electrode and an upper electrode, the lower electrode having a

lower electrode height," wherein "the capacitor extends at least an entire vertical length of the first sub-layer."

In rejecting claim 1 as anticipated by *Watanabe*, the Examiner relies upon *Watanabe*'s storage element C in FIG. 1 to allegedly teach the "capacitor," relies upon *Watanabe*'s insulating layer 33 to allegedly teach the "first sub-layer," of claim 1. Contrary to the "capacitor," of claim 1, however, the storage elements C in *Watanabe* do not extend the entire vertical length of the insulating layer 33. Thus, the storage element C does not constitute the "capacitor," of claim 1. For at least this reason, claim 1 is patentable over *Watanabe*. Claims 2 and 5-8 are patentable over *Watanabe* at least by virtue of their dependency from allowable claim 1.

NEW CLAIM

Applicants have added new claim 23, which is also believed to be allowable over the prior art of record. With respect to claim 1, the Examiner relies upon *Watanabe*'s electrode 27 to allegedly teach the "lower electrode," *Watanabe*'s electrode 29 to allegedly teach the "upper electrode," and *Watanabe*'s insulating layers 33, 37 and 41 to allegedly teach the "first sub-layer," the "lower layer," of the second sub-layer, and the "upper layer," of the second sub-layer as recited in claim 1. However, as is clear from even a cursory review of *Watanabe*'s FIG. 1, the electrodes 27 and 29 in *Watanabe* do not even extend the entire vertical length of the insulating layer 33, let alone, into the insulating layers 37 and 41. Therefore, claim 23 is patentable over *Watanabe*.

CONCLUSION

Accordingly, in view of the above amendments and remarks, reconsideration of the objections and rejections and allowance of each claim in connection with the present application is earnestly solicited.

If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number listed below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

HARNESS, DICKY & PIERCE, PLC

By _____

John A. Castellano
Reg. No. 35,094

JAC/AMW:krm

AMW

P.O. Box 8910
Reston, VA 20195
(703) 668-8000